

# NEW HAMPSHIRE REAL ESTATE COMMISSION

## COMMISSION MEETING

DECEMBER 18, 2001

A meeting of the New Hampshire Real Estate Commission was held on Tuesday, December 18, 2001 at 9:00 a.m. in Room 425, State House Annex, 25 Capitol Street, Concord, New Hampshire 03301.

Meeting called to order at 9:00 a.m. by Chairman ARTHUR SLATTERY.

Present: Commissioners ARTHUR SLATTERY, MARTIN SMITH, PAULINE IKAWA, BARBARA HEATH, Executive Director BETH EMMONS, Investigator ANN FLANAGAN, and Executive Secretary CINDY PATTEN.

- I. Motion by Commissioner HEATH, seconded by Commissioner IKAWA, to approve and accept the minutes of the Commission meeting held on November 20, 2001.

### II. APPOINTMENTS

9:00 a.m. - Equivalency Interviews - None

9:15 a.m. - KEVIN E. STEINBACH appeared before the Commission for reconsideration of the Commission's decision at the May 15, 2001 Commission meeting, in which the Commission denied Mr. Steinbach a waiver from RSA 331-A:18 - license lapsed over 6 months from expiration date. Upon a re-evaluation, discussion and review, the Commission unanimously decided to grant Mr. Steinbach's request and re-instate his license, upon receipt of renewal fees, application and required documentation. Mr. Steinbach to be notified.

9:30 a.m. - JAY TOMS appeared before the Commission to discuss a previous incident prior to applying for a salesperson's license. After discussion and review, the Commission unanimously decided to allow Mr. Toms to apply for a salesperson's license, contingent upon receipt of a letter from his principal broker, acknowledging that the broker is aware of Mr. Toms' previous incident.

### III. DISCUSSION

SERGIO CARTAYA submitted a request for an extension of his temporary broker's license which expires on January 5, 2002. Mr. Cartaya still needs to pass the state portion of the real estate broker's exam and is currently registered to take this portion in January. The Commission unanimously approved to extend Mr. Cartaya's temporary broker's license until he successfully passes the exam. The extension is in effect, as long as Mr. Cartaya completes the upcoming exam, and each subsequent exam, if necessary, until he successfully passes the broker examination.

CHARLINE MASON submitted an inquiry regarding gifts to unlicensed individuals in view of the past Commission interpretations of the matter. After discussion and review, the Commission unanimously

decided that it was permissible for a real estate agent to give a gift or money to an unlicensed individual not to exceed \$100. The Commission further discussed this as a possible future definition of "valuable consideration." Ms. Mason to be so notified.

KATHY COREY FOX and KIPP COOPER of NHAR discussed with the Commission the Association's thoughts on HB 1212 and the SB 71 Committee recommendations.

IV. **OTHER BUSINESS**

1. Tuesday, January 15, 2002 was unanimously approved as the date for the next regular meeting.

2. CASE EVALUATIONS

(a) **FILE NO. 2001-05-03**

Evaluator: Commissioner IKAWA

Determination: Should be heard, hearing to be scheduled.

(b) **FILE NO. 2001-06-04**

Evaluator: Commissioner IKAWA

Determination: No violation, should not be heard. Complaint to be referred to the Banking Commission.

(c) **FILE NO. 2001-10-06**

Evaluator: Commissioner SLATTERY

Determination: Should be hearing, hearing to be scheduled.

(d) **FILE NO. 05-01-99**

Evaluator: Commissioner SLATTERY

Determination: No violation, should not be heard.

(e) **FILE NO. 2001-05-02**

Evaluator: Commissioner SLATTERY

Determination: No violation, should not be heard.

The above determinations were unanimously approved.

V. HEARING 9:45 AM

**FILE NO. 2001-04-01 N.H.R.E.C. & RICHARD DUMONT VS LEE FITZGERALD**

Evaluator: Commissioner LeRoy

The following persons were present at the hearing:

Commission: Commissioners ARTHUR SLATTERY, MARTIN SMITH, BARBARA HEATH, PAULINE IKAWA, Executive Director BETH EMMONS, Investigator ANN FLANAGAN, and Executive Secretary CINDY PATTEN.

Stenographer: BARRY G. NOLIN

Gerard J. Nolin & Associates, LLC  
275 South St., P.O. Box 1088  
Concord, NH 03302-1088

Evaluator: Commissioner LeRoy evaluated the above matter and abstained from participation in the hearing and resulting decisions.

Complainants:

N.H.R.E.C. through its Investigator Ann Flanagan  
&  
Richard Dumont

1100 Valley Street  
Manchester, NH 03103

Attorney: Pro Se

Witness: Patricia Bennett

Respondent: Lee Fitzgerald

656 South Beech Street  
Manchester, NH 03103

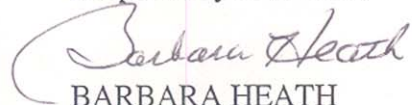
Attorney: Andrew A. Prolman, Esq.

Prunier & Leonard P.A.  
20 Trafalgar Square, Suite 626  
Nashua, NH 03063-1981

Decision: Pending - subject to review of transcripts and exhibits.

VIII. Motion by Commissioner SMITH, seconded by Commissioner IKAWA to adjourn the meeting. Chairman SLATTERY adjourned the meeting at 11:20 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Barbara Heath", is written over the printed name.

BARBARA HEATH  
Clerk